

### **304.35-030 Requirements of plan and authority of association.**

- (1) The "FAIR" plan and articles of association shall make provision for a reinsurance association having authority on behalf of its members as their agent to cause to be issued property and casualty insurance policies, to reinsure in whole or in part any such policies, and to cede any such reinsurance. The plan and articles of association shall provide, among other things, for the lines of business to be written, policy forms to be used, perils to be covered, geographical area of coverage, compensation and commissions, assessments of members (which assessments annually shall not exceed one percent (1%) of any such member's net direct premium written on a voluntary basis in this state during the preceding year), participation in the writings, expenses, income, and losses in the proportion each member's property and casualty premiums written bear to the aggregate property and casualty premiums voluntarily written by all members, the administration of the plan and association, and any other matter necessary or convenient for the purpose of assuring fair access to insurance requirements.
- (2) If the executive director, in the fulfillment of the duties imposed on him by KRS 304.13-041, determines that a reasonable degree of competition does not exist in the market for any lines of insurance, within the definitions of KRS 304.5-050 (property insurance) and KRS 304.5-070 (casualty insurance), or either of them, and issues an order to that effect, the executive director shall order the governing committee to promptly amend the plan to include such line or lines of business unless, in the executive director's opinion, an effective residual market mechanism as defined in KRS 304.13-011(8) is already then functioning to provide basic insurance requirements to worthy applicants for reasonable amounts of coverage under such line or lines of insurance with insurers licensed to do business in this state. For accounting and rate-making purposes, the executive director may require the plan to provide for the establishment and maintenance of separate accounts for any line included in the plan pursuant to this section.

**Effective:** July 13, 1990

**History:** Amended 1990 Ky. Acts ch. 260, sec. 1, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 225, sec. 3, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 314, sec. 3, effective July 15, 1986. -- Amended 1984 Ky. Acts ch. 167, sec. 13, effective July 13, 1984. -- Amended 1980 Ky. Acts ch. 359, sec. 3, effective July 15, 1980. -- Created 1972 Ky. Acts ch. 65, sec. 3, effective June 16, 1972.

**Legislative Research Commission Note** (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.